



## Hollowing out Probation? The roots of Transforming Rehabilitation

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# Hollowing out Probation? The roots of Transforming Rehabilitation

## Abstract

### *Introduction*

This article provides a critical perspective on the political and policy history of probation in England and Wales to develop a better understanding of the roots of Transforming Rehabilitation (TR). Whilst TR resulted in a significant departure from probation's past, it also represented some continuity in the sense that it was the latest act in a longstanding process of change brought by successive governments to the service's purpose, practice, structure and governance. We argue here that this process resulted in probation being hollowed out structurally, professionally and normatively, something made easier by a lack of effective resistance from within. Political and policy challenges to public services in the criminal justice system are not new but many have been met with considerable resistance both from 'rank and file' and organisational leadership, for example within the police. Leishman et al. (1995, 27) suggest that the police have been able to resist new public management reforms quite successfully because of a powerful policy network and coordinated resistance by the Police Federation, Police Authorities, and some Chief Constables and ACPO representatives. In contrast, what is noticeable in the context of TR is the absence of probation leadership in providing a public voice for probation and a focus of resistance, caused in part by the erosion of probation's organisational culture (Collett 2013) and the hegemonic way in which successive governments drove change from the 1970s and 1980s (Senior 2007).

Moreover, we have argued previously (Deering and Feilzer 2017) that changes carried out over the last 30 years have had a gradual negative effect upon probation's legitimacy, not least upon the self-legitimacy of practitioners, caused in part by government efforts to change the nature of the relationship between the probation officer and the supervisee and the values underpinning this relationship. The 1907 Act saw Probation founded on the ethos of 'advise, befriend and assist' (Whitehead and Statham 2016) and it was not until the 1970s and 1980s that this central premise came under significant threat. It was abolished by the 1991 Criminal Justice Act, when probation became 'punishment in the community' and a sentence

of the court and since then the issue of legitimacy has raised complex questions for probation practice.

### *Changing probation's purpose and social position*

In our view, the process leading up to TR can be traced to the late 1970s and early 1980s, with the emergence of identifiable themes around changes to probation's purpose, practice, structure, governance, and penal policy more generally. These changes contributed to governments' desire to change probation's ethos and purpose and have been consistent with theories of late modernity (Garland 2001; Pratt 2005 *et al*). These cite the rise of neo-conservative political ideas about the causes of and responses to crime, as well as the rise of the 'new public management' and later managerialism and their impact upon successive government's views about the role of the state in public life (Flynn, 2002; Exworthy and Halford, 1999). Such theories argue that starting from roughly the mid-1970s, we have witnessed the return to prominence and influence upon government of classical rational choice theories of crime, accompanied by a belief in the need to punish as an act of retribution and deterrence (Wilson 1975; Wilson and Kelling 1982). Such views were receptive to, and reinforced by, the (albeit misinterpreted) 'Nothing Works' doctrine of Martinson and others (Martinson 1974; Lipton *et al* 1975) and underpinned government moves to redefine probation's purpose away from a general rehabilitative ideal to one of providing cheap alternatives to custody (Raynor and Vanstone 2002; Whitehead and Statham 2006). Prior to this, in 1967 probation officers gained responsibility for the supervision of prisoners released on license by the newly set up Parole Board. Additionally, the introduction of the Community Service Order in 1972 had seen probation officers as responsible for supervising community service orders and ensuring that those under supervision comply with reporting and work requirements (Criminal Justice Act 1972). Taken together, these developments began the repositioning of probation practitioners from 'friends and mentors' with a duty to 'report to the court as to his [the offender's] behaviour' (Probation of Offenders Act 1907) to practitioners supervising and managing individuals. Practitioners became part of a penal system that whilst still promoting rehabilitation was witnessing the growth of state control with a duty to assess risk, advise sentencers, monitor sentences and parole, and start breach proceedings.

The 1990s reinforced this shift and firmly changed the official identity of probation. The Criminal Justice Act 1991 made the probation order a sentence of the court and was accompanied by new National Standards that overrode practitioner discretion particularly in the practice of enforcement and breach (Home Office 1992). Probation was now ‘punishment in the community’ and, alongside the emergence of risk (Kemshall 2003) saw the service being recast by government as a law enforcement and public protection agency. Rehabilitation did continue as an official aim, but in the changed form of what has been called the new rehabilitation (Vanstone 2004); one based in cognitive behaviourism and set within a context of law enforcement and accountability.

This shift in purpose resonates with a debate around the professional values of probation practitioners, which we have discussed in some depth (Deering and Feilzer 2015). The values of probation have often been reduced to the strapline of ‘advise, befriend, and assist’ and there has been an assumption that probation shared social work values for most of its existence. More recently, however ‘official’ values have shifted and, in our view, prior to TR centred on offender management and punishment, public protection and the reduction of offending (Deering and Feilzer 2015, 24). There is significant evidence that practitioners still agree with fundamental and normative values of believing in an individual’s ability to change, treating clients in a professional and fair manner, etc. (Deering 2010; Deering and Feilzer 2015, 26). However, the shifting purpose of probation as an organisation means that these values are often framed or overshadowed by instrumental concerns such as public protection, reducing reoffending, and punishment.

The emphasis on crime reduction and crime prevention presents probation’s purpose very differently from traditionally conceived public sector values of social justice, community responsibility, etc. (Parliamentary Select Committee on Public Administration, 2002). Before these changes, probation was a local and community-based service, able to act as an ‘honest broker between community representatives and local agencies, including the police’ which held ‘a vision wider than a narrowly correctional one’ (Collett 2013: 176).

*Changing probation practice – from rehabilitation to punishment in the community*

Until the mid-1970s, probation practice was based, for the most part, in a casework model, pursuing the rehabilitation of its 'clients' (Vanstone 2004) although this was probably not for its own sake, but rather with the overall goal of reducing crime. Although there were debates around models of practice (e.g. see for example the 'non-treatment paradigm' of Bottoms and McWilliams 1979), in general terms practice was eclectic and practitioners had discretion in deciding their own model of intervention (Vanstone 2004) and how and when to question their client's compliance with orders or initiate breach proceedings. By then, generations of probation officers had been social work trained with an emphasis on one-to-one relational work aiming to 'make a difference' and change 'misdirected lives' (Crawforth 2011: 289). One-to-one work included a variety of approaches with origins in different academic and practice disciplines, such as volunteer befriending, mentoring, casework, counselling, psychoanalysis, motivational interviewing, etc. (for a full discussion, see Burnett 2004, 180-184).

The Statement of National Objectives and Priorities (SNOP - Home Office 1984) began the process of the state setting a new agenda for the service towards different priorities, namely efficiency and working with more serious and persistent offenders (Raynor and Vanstone 2002). SNOP was seen as a way of making probation contribute to these two aims of government and providing rigorous alternatives to custody for more serious offenders was seen as a more legitimate role than rehabilitation for its more traditional client group - individuals with high levels of criminogenic and support needs who commit less serious offences but do so frequently. Furthermore, this shift was intended to help reduce the overall size of the criminal justice budget at a time of rising custodial numbers (Whitehead and Statham 2006).

Later in the decade, the Audit Commission also argued that probation should be working with more serious offenders by providing alternatives to custody (Audit Commission 1989) and the White Paper 'Crime, Justice and Protecting the Public' (Home Office 1990) proposed that prison should be reserved for the most serious offenders and the purposes and aims of probation and non-custodial supervision were repackaged as 'punishment in the community'. In due course, the Criminal Justice Act 1991, whilst bringing the probation service 'centre stage' did so on the basis that it would now provide punishment via a restriction of liberty and enforcement, increased efficiencies, supervision and management systems (Deering 2011). Whilst the Act aimed to reduce the use of custody and did so initially, it might be seen as

consistent with a punishment approach, as it was based in the retributive principle of 'just deserts', arguing that all court sanctions were punishments and should carry a punitive weight, but that the use of custody could be restricted by using punishment in the community through revised notions of proportionality. However, the Criminal Justice Act 1993 removed elements of the Criminal Justice Act 1991, as the Conservative government of John Major pursued policies that resulted in the significant growth in the use of custody over the next 20 years.

At the same time, the early 1990s witnessed the conversion of the Labour Party in opposition to 'talking tough' on crime and this is seen as being of great importance in the 'toughening up' of probation in the longer term. In 1993 the Shadow Home Secretary, Tony Blair declared that a future Labour Government would be 'tough on crime, tough on the causes of crime'. This not only showed a fundamental shift in Labour policies, but also, it is argued, saw the clear linking of punitive justice policies being linked to electoral success as the main political parties now aimed to outbid each other on criminal justice in the eyes of the public (Roberts *et al.* 2003).

Throughout the 1990s, the Conservative government of John Major tended to see the probation service as weak, failing, and 'on the side of the offender' (Newburn 2003: 150) and Home Secretary Michael Howard abolished social work training as a required qualification for probation officers. A Green Paper 'Strengthening Punishment in the Community' (1995) and its consequent White Paper, 'Protecting the Public' (1996) stressed the importance of prison alongside the need for community sentences to concern themselves with punishment and for the courts to influence their content. Community sentences were criticised as 'soft' and doing insufficient work to emphasise the individual's responsibility for offending, but these views were never translated into legislation due to the election of the New Labour government in 1997 (Deering 2011).

Given these prevailing attitudes of government to crime and the service, probation practice came under considerable pressure and, in the eyes of government at least, risk assessments and offender management became more important than one-to-one rehabilitative work. Thus, probation practitioners were recast as enforcers of sentences and the relationship between probationers and practitioners changed from 'friend to acquaintance' (Collett 2013: 164), from one-to-one relational work to a more hierarchical relationship. Referral to support

services or offending behaviour programmes, and managing offender compliance gained greater emphasis in probation practice. It is clear that probation practitioners attempted to resist these changes and their positional reconstruction through 'edge-work' (Mawby and Worrall 2013) and adapting policy to their understanding of probation values and priorities (Cheliotis 2006; Deering 2011). Nevertheless, this represented a fundamental shift in relationships, one that we argue had a major impact on the self-legitimacy of probation staff in due course (Deering and Feilzer 2017).

The change to probation training provision was an important indicator of the changing practice environment. Until the 1990s, probation practitioners were social work trained, but when the Labour Government reintroduced professional training for probation officers in 1997 it created a new qualification, the Diploma in Probation Studies, focused on public protection and the reduction of reoffending (Deering and Feilzer 2015, 24).

Alongside changes to training, an important factor in changing practice were the technological advances brought to probation both in the form of IT databases and risk assessment tools. Introduced in 2001, OASys was firmly built on the What Works movement and designed as a tool for assessing an individual's risk of reoffending; risk of harm to self and others; criminogenic needs; and as a means of managing harm and risk (Debidin 2009). Completing a risk assessment prior to writing pre-sentence reports which would guide any sentence recommendation and sentence and risk management plan constitutes a major change from the relatively unstructured nature of relational one-to-one work. Great reliance was placed on offender programmes, often seen as synonymous with cognitive behaviour programmes or other group programmes, side-lining one-to-one supervision and individual practitioner skills (for a full discussion of the neglect of one-to-one work and skills, see Raynor et al 2014, 236-237). The value of, and skills required for, one-to-one work was partially rediscovered through the lens of practitioners' roles in supporting individuals' processes of desistance (see, for example, Burnett 2004) but as practice was underdeveloped both theoretically and empirically (Burnett 2004; Raynor 2014).

Vanstone, in reviewing the Labour legacy, argues that initially it regarded probation in a favourable light and invested heavily in the provision of group work-based programmes under the Effective Practice Initiative (Vanstone 2010) as well as creating the NPSEW. However, after

its first term, he claims that the government became increasingly concerned with control and requiring probation to emphasise law enforcement and punishment rather than rehabilitation. This change may be seen within the creation of NOMS (clearly emphasising offender *management* rather than rehabilitation) (Vanstone 2010: 283).

Legislation reveals this punitive and managerial drift in terms of criminal justice and probation practice. The Criminal Justice Act 2003 became operational in April 2005 and is regarded as adding to the use of custody overall and also to the use of formal supervision at the expense of fines and discharges. The overall effect was one of 'up-tariffing' the system as a whole and the bringing of increasing numbers of more petty offenders under some form of direct supervision (Marston 2010; Mair 2011).

Introduced under the Criminal Justice Act 2003, the community order (CO) also provided some evidence of a more punitive drift. Whilst the CO was designed to be flexible and personalised, making use of personalised combinations of the total of 12 possible Requirements in individual COs, there were initial concerns that courts would overload COs with excessive numbers of Requirements. This did not materialise (Mair 2011), however, there was an initial trend to reduce the length of COs whilst also decreasing the number with a Supervision Requirement, the equivalent sentence to the probation order. In place of supervision, there was an increase in Unpaid Work, Curfew and other more punitive Requirements. Mair argued that this resulted in a more punitive order and one that laid the ground for the marketisation of the service, as the probation practitioner (referred to as the offender manager) increasingly held cases with various Requirements but no supervision, traditionally the vehicle by which more rehabilitative work took place (Mair 2011: 228-229). Alongside this, there was a decline in the number of Requirements made that would allow for individuals taking part in probation accredited group work programmes, again, in Mair's view, undermining probation's traditional role and shifting its work base still further to a management role of a range of punishments administered by others.

In the early 2000s, a clear tension between government policy and practice had emerged. Government policy and guidance had become preoccupied by offender management driven by risk assessment, sentence plans, and referral to offender programmes. Increasing caseloads resulted in very little time remaining to fully engage with those serving sentences and providing good quality one-to-one work, nevertheless, many practitioners retained a



focus on support for their supervisees. At the face of it, the changes could be summed up as a move from a traditional social work service based on one-to-one work of supporting those sentenced by the court whilst offering some control; to a criminal justice agency concerned with the control of offenders whilst offering some support to respond to criminogenic needs.

### *Changing probation's structure and governance*

The changes to probation's purpose, social position, and practice outlined above were accompanied by changes to the way probation was organised and governed. In 1907, probation was established to provide services for, and was responsible to, local Magistrates' Courts and probation practitioners - the 'officers of the court' were paid by local authorities. This link with the court system and the local community was broken by the creation of the National Probation Service for England and Wales (NPSEW) in 2001 (Home Office 2001). The NPSEW was a hybrid organisation within the public sector with chief officers appointed by the Secretary of State, other staff being employed by probation area boards across England and Wales (Whitehead and Statham 2006, 186; McCarva 2008, 2).

However, within only a few years of the NPSEW's creation the desire of the government to open up the service to competition via the marketisation of its functions became evident when it commissioned the Carter Report (*Managing Offenders, Reducing Crime – the Correctional Services Review* – Carter 2003). It has been argued that this change was driven by the New Labour government's commitment to 'modernisation' (Senior et al 2007). Burke and Collett (2010) recall Labour's claim after 1997 to championing a pragmatic approach to public sector practice and governance based on evidence of effectiveness, but argue that this was overridden by an obsession with public service 'reform' which included a nascent market based approach. Modernisation was seen as one of New Labour's 'big ideas' (Raine 2002) underpinning reform via a drive for 'economy', 'effectiveness' and 'efficiency'. This was to be achieved via the creation of quasi-markets and the contracting out of services, the argument being that this was a way to 'smarter and more astute' government. Such policies were then driven downwards and enforced by a combination of 'censure, compliance and commitment' which together made up a 'hegemony' of modernisation through changes to discourse and language (Senior et al 2007: 30).

The Carter Report recommended the effective abolition of the NPSEW as a separate entity within the criminal justice system by it being absorbed into the new National Offender Management Service (NOMS). The government's enthusiasm can be gauged by the acceptance of the Carter Report by the then Home Secretary, David Blunkett within a month of its publication (Burke and Collett 2010: 236). NOMS was created administratively in 2004 and its longer-term purpose was to introduce the market to probation work by proposing a purchaser/provider split. NOMS was to commission 'probation services' initially from semi-autonomous probation trusts (as opposed to probation areas under NPSEW) but later from potentially any public, private or voluntary body (Carter 2003). Ultimately, the NPSEW lasted only some six years before being undermined by government and withering on the vine following the Offender Management Act 2007 (Deering 2011). It is difficult to judge how much resistance to those changes existed within probation senior management and leadership but Collett (2013: 165) reflected 'that the collective probation leadership was able to do little to ameliorate New Labour's rightward correctional drift'. It may also have been significant that chief officers were appointed by the Secretary of State when the NPSEW was created in 2001, rather than being the heads of largely autonomous organisations working locally with Magistrates' Committees paid in the same manner as their colleagues. Such a change is likely to have made potential opposition to government policy less likely.

NOMS and these proposals were controversial and opposed (Napo 2006; McKnight 2008), but Burke and Collett (2010: 240) argue that Labour came to hold a position in opposition to probation's continued monopoly (and as a result that of the state) over non-custodial interventions with offenders, producing a number of policy papers after Carter that resulted in the detail of the Offender Management Act 2007. Home Secretary John Reid is seen as particularly hostile, regarding the service's performance as poor and in need of contestability, marketisation and eventually privatisation (Burke and Collett 2010: 240).

These attitudes, combined with the 'logic' of modernisation perhaps make these developments unsurprising and, after a number of different proposals and models, the Offender Management Act 2007 finally created the conditions for a privatised, market led system by requiring only limited services to courts to be provided by probation and allowing all other functions to be commissioned by the Secretary of State from 'any other person'

(Ministry of Justice 2011: para. 25). However, in the short term, probation's role was protected until 2010 (Straw 2007) and remained in place until the TR changes in 2014.

By 2010 and the May general election therefore, Labour is seen as having moved a considerable distance in its approach to criminal justice in general and probation governance in particular, by this point advocating a marketised approach and one underpinned by a less tolerant, more punitive attitude to offenders.

### *Dismantling Probation – Transforming Rehabilitation*

The sections above have outlined the significant changes to the purposes, practice and structure of probation from its inception. Nevertheless, TR has been the most dramatic and significant change to probation structure, including, the part-privatisation of probation work. The recent announcement (July 2018) by the Justice Minister David Gauke that the current Community Rehabilitation Companies' contracts will be ended early, to be replaced by 10 new contracts (down from 21) and the reunification of a public probation provision in Wales is clearly significant, but the government's commitment to a 'mixed-market approach' remains strong (Ministry of Justice 2018: 3; Webster 2018).

The major factor underpinning all Coalition Government policy appeared to be the austerity drive in the wake of the financial collapse after 2008. However, we would argue that austerity brought greater force and urgency to policies that would have been pursued in any case by a government ideologically committed to the shrinking of the state and to punitive criminal justice. Indeed, the proposals made by the government in 2011 and 2012 combined the privatisation of many probation functions alongside a reduced financial risk to the state and was driven by the same ideological logic employed by the New Labour Governments (Ministry of Justice 2011; 2012).

Whilst the initial signs in criminal justice were somewhat more liberal, change was soon to accelerate. After the May 2010 election, the new Justice Minister, Kenneth Clarke announced a 'rehabilitation revolution' aimed at stopping what he referred to as the 'revolving door' of repeated re-offending, particularly of ex-prisoners (Clarke 2010). Furthermore, via the Legal Aid, Sentencing and Punishment of Offenders Act 2012, Clarke reversed sections of the

Criminal Justice Act 2003 to make breach of a community order less punitive and to reduce the use of 'ineffective' short prison sentences and their replacement by 'effective' community sentences. However, the devil in the detail of the consultation document mentioned above (Ministry of Justice 2011) revealed the beginning of a significant escalation of Labour's policy of the marketisation of probation work. Moreover, this escalation became evident when Clarke was replaced as Justice Minister by Christopher Grayling in 2012. This change would see both the marketisation of probation become a reality and a reaffirmation of a more punitive approach to probation, as Grayling's Crime and Courts Act 2013 reversed Clarke's changes to breach in addition to making it compulsory to have a Requirement in all COs for the 'purpose of punishment'.

The government's plans were that the publicly managed probation service be reduced to a rump directly supervising only individuals posing a high risk of harm, all other probation work being opened up to market competition (Ministry of Justice 2011; 2012). The aim of these proposals was to 'improve' probation practice by ending the 'command and control' of Whitehall via a mix of private/voluntary and statutory probation practice (Ministry of Justice 2012: 3). The irony is that the notion of 'command and control' by Whitehall had only been introduced by the NPSEW and reaffirmed by NOMS in 2004. These proposals were recognised as posing a great threat to the probation service as it would cease to exist as a unified state body working with all those receiving community sentences or leaving custody on licence.

Final proposals were published in 2013 (Ministry of Justice 2013a) and announced the government's intentions to press ahead with the marketisation and possible privatisation of 70 per cent of probation functions by 2015. Many of the provisions had been made possible by Labour's Offender Management Act 2007 and the Offender Rehabilitation Act 2014 provided for the post-custody supervision of short-term prisoners.

The proposals were controversial and attracted opposition from Napo (2013), academics, former probation staff, reform groups such as the Howard League for Penal Reform, User Voice, Clinks and some journalists (e.g. Burke 2013; Senior 2013; The Guardian 2013; see Webster (2014) for a selection of interviews on TR). However, in 2014, Probation Trusts were split into the National Probation Service (NPS) which became part of the civil service and 21 Community Rehabilitation Companies (CRCs) which were subject to marketisation and a commercial tendering process. After the bidding process was completed in 2014, eleven CRCs

were owned by private sector companies leading a partnership with third sector organisations; three were joint ventures between the private, public, and third sectors; three were a public, private, and third sector partnership; two were owned by the private sector exclusively; and another two were equity joint ventures between the private and third sectors (Deering and Feilzer 2015:13).

Very little media attention was given to the introduction of TR, which involved the destruction of a unified public probation service and affected over 16,000 probation staff and over 200,000 people under probation supervision in one form or another (Ministry of Justice 2013b). Early verdicts of the impact of TR on probation practice and its staff have been almost entirely negative, including a number of reports by HM Inspectorate of Probation (HMIP 2016(a); 2016 (b); 2016 (c)). Such verdicts led to an inquiry by the House of Commons Justice Committee, which in due course published a damning review (House of Commons Justice Committee 2018). A staff exodus has taken place, including a reduction of qualified probation practitioners in the CRCs. Dissatisfaction with working conditions has been documented in both the NPS and the CRCs in terms of flexible working, provision of basic IT systems, pay and benefits, and many other aspects (Kirton and Guillaume 2015 - for a fuller discussion of the effect of TR on self-legitimacy of probation staff, see Deering and Feilzer 2017).

The extent of the problems produced by TR has been acknowledged by the current government, surprisingly perhaps, given that much was invested in it ideologically. As mentioned, in July 2018 the Ministry of Justice announced that the contracts with the CRCs would be terminated two years earlier than initially contracted, and would lead to a complete reorganisation and reduction of the CRC contracts from 21 to 10 covering England. Of particular interest is the proposal to transfer the supervision of the CRC caseload in Wales to the NPS in Wales, thus effectively re-creating a unified, public service (Ministry of Justice 2018). These changes come at a significant cost to the taxpayer and as part of an acknowledgement – albeit a rather muted one – of a significant problem in the new arrangements. The consultation document released by the Ministry of Justice in July 2018 also indicates plans for greater collaboration of both NPS and CRCs with other local stakeholders such as Police and Crime Commissioners (Ministry of Justice 2018: 9).

### *Explaining the lack of Resistance*

Given the controversial nature of the TR project and the lack of any evidence of effectiveness of such a model underpinning it (Deering and Feilzer 2017), how can the absence of significant resistance to the changes leading up to and including TR from within probation service leadership, or champions outside be explained? Of course, there were plenty of voices warning about the effects of TR and Napo did attempt to bring this issue to public attention, starting campaigns to 'keep probation public', including taking strike action for only the third time in its history, and seeking judicial review (Robinson et al 2017: 147-148). However, there were no concerted efforts from Probation Trusts, or other probation leadership to challenge government plans. This may be a result of senior staff being 'banned' from expressing concerns about TR, as reported by *The Guardian* in 2013 (*The Guardian* 2013, cited in Robinson et al 2017: 147) or an inability and/or unwillingness to resist.

Fundamentally, we suggest that it has been the determination of successive governments, for various ideological reasons, to change the purpose, practice and values of the service that has underpinned the road to TR. These changes had - to some degree - created an internally divided probation service uncertain of its core values even before TR. In general, since the 1970s government had wished to move the service from a 'helping' (social work service) organisation to one based in the administration of punishment, the assessment and management of risk and the reduction of re-offending (criminal justice agency) and has, at the same time, moved the criminal justice system in a more punitive direction, exemplified by the current record prison population.

These changes did meet some resistance at the time, but not to the extent, nor with the unity likely to have dissuaded government from its chosen direction. Prior to TR, changes were introduced gradually, but nevertheless began the process of dividing staff, leaving them in a continuing state of flux and liminality (Robinson et al 2016). Over time, the extent of these changes have led to a profession that has to some degree become at odds with itself, although in our view, this has been more apparent between practitioners and managers, rather than between practitioners (Deering and Feilzer 2015). Whilst practitioners have perhaps been adhering to a notion of 'the honourable profession' of probation (Worrall, 2016), management appears to have been more inclined to satisfy its political masters looking for greater efficacy and efficiency in assessing risk, administering punishment and preventing

crime. Practitioners retained their belief in acting as ‘friends and mentors’ to clients in need of support whilst being forced to occupy a social position of agents of the state with a responsibility to monitor, assess, and punish – through initiating breach proceedings – individuals under their management. Such a position implies a hierarchical relationship based on domination and subordination, which requires legitimisation work by those acting on behalf of the state, in order to promote internal legitimacy (Ugelvik 2016, 216-217). Thus, many practitioners may well find themselves in a hierarchical relationship with their supervisees with which they are not entirely comfortable, given its focus on risk management and control rather than rehabilitation (Deering 2011). These issues are of course not unique to probation and Ugelvik (2016, 216) discusses how immigration detention officers use ‘backstage narrative legitimisation work’ – i.e. the work to increase their own sense of self-legitimacy - with the aim of bridging an external and internal legitimacy deficit. However, in the case of probation practitioners, the backstage legitimisation work is at odds with the narratives produced by government to secure external legitimacy and rather than creating a bridge this actively serves to undermine and hollow out both narratives.

This apparent division between practice and management has been noticed over several years (Farrow 2004; Deering 2011; Robinson *et al.* 2014; Deering and Feilzer 2015) and this is likely to have brought into question what ‘probation stands for’ and created an organisation at least partly divided in terms of its values. Our research (Deering and Feilzer 2017, 4) argued that TR threatened one of the bases of probations practitioners’ sense of self-legitimacy, namely that staff feel enabled and supported by, and hence identify with their organisation. Therefore, we would suggest that the threat to self-legitimacy existed prior to TR and had started to undermine probation practitioners’ and management’s ability to resist TR and its implications.

As mentioned, probation has lacked a public image and profile (Ipsos Mori 2008 in Crawforth 2011: 293; Robinson *et al.* 2017: 141). When combined with an apparent division in the underlying values of practice and management, such a lack of profile makes attracting public or political support all the harder in difficult times. Making a claim to being a voice for the voiceless is difficult when the voice appears to speak in tongues that do not relate to one another. Practice that espouses rehabilitation and supporting those who offend whilst at the same time assessing risk, protecting the public, and punishing in the community is

contradictory. Such positions are not easily communicated and clearly do not represent a clear and coherent message of what probation 'stands for'.

Furthermore, for Collett (2013: 164) the absence of resistance from probation leadership and a 'public probation voice' can also be explained by a slow erosion of a strong organisational culture based on a history of providing a service as well-meaning and supportive friend. This repositioning changed probation into a component of a 'politicised and controlling bureaucracy' (Collett 2013: 165) in the same context as policing and prisons. Moreover, Senior et al. (2007: 30) have argued that senior probation management acceded to change due to the hegemony of 'modernisation' which saw policies being driven downwards and enforced by a combination of 'censure, compliance and commitment'. At the same time, after the creation of the National Probation Service for England and Wales in 2001, chief probation officers were appointed by the Secretary of State and thus less likely to offer public opposition to further change.

Clearly, the changes to probation and the battle over what it has come to represent have raised questions about probation's legitimacy. Ugelvik (2016) has argued that in such situations, organisations and individuals need to undertake 'legitimation work', based on a strong feeling of self-legitimacy amongst staff. Our research, (Deering and Feilzer 2017) suggests a group of practitioners whose confidence in their own legitimacy has been severely shaken and, similarly, Robinson et al (2017: 148) identify a legitimacy deficit among those who would be expected to undertake legitimation work on behalf of their organisation. If this view is accepted, it is likely that such changes would have further affected the service's efforts to provide and significant, united opposition to the TR changes.

## **Conclusion**

This article has tried to shed some light on how TR came about without large-scale resistance from within the probation service and its leadership and the absence of significant support from either the public, individual champions within or outside of government, or other agencies. We argue that probation has fallen victim to a slow erosion of its core function, purpose, and value system. This occurred through changes imposed from above, in relation to the purpose of probation, as well as to its structure and governance. This has meant that



it has become increasingly difficult to identify what probation stands for and that its voice has been largely inaudible in the clamour around criminal justice. Whilst many practitioners have retained what might be called a 'traditional view' of probation's purpose, this seems not to have been the case amongst some management, particularly at a senior level. When faced with significant change driven via determined top-down government of the service, a 'cultural divide' has undermined attempts to withstand such major dislocation. Additionally, practitioner values stood in contention with the structural and social position of probation. Crucially, the absence of any significant public understanding of, or support for, the work of the service has made resistance even more difficult.

Returning to the question in the title of this article, it would seem that the roots of TR, in governance terms, are based upon a number of transitions. From local control prior to the 1970s to more centralised state control over criminal justice policy and practice in the 1980s and 1990s to one where the state, whilst still retaining overall control, is increasingly divesting itself from practice in the name of marketisation, cutting costs and shrinking the state, all set against a more punitive approach to offenders. However, paradoxically this divesting of direct day-to-day governance, rather than allowing a return to local autonomy over the working relationships between probation practitioners and their clients, commissioning frameworks, national standards and tight regulation ensure a surprising amount of central control (see Milling et al in this issue). Arguably, this oversight allowed for the realisation of the disastrous effect of the structural changes of TR and this has resulted in the dramatic announcement that the CRC contracts will be terminated early and another review of probation is under way.

This article has set out how probation has been hollowed out over the past 40 years; namely, it is no longer a unified public sector organisation that pursues a generally rehabilitative ideal within a criminal justice context, with a workforce regarded as sharing common values and working towards a common goal. Rather, due to government initiatives that started prior to TR, it has become organisationally, structurally, and ideologically divided and is witnessing growing divisions between practitioners and management. Many practitioners are perhaps still wedded to norms and values of a bygone era, but these have been repositioned within what government considers to be criminal justice agencies, with clear instrumental aims of public protection, reducing reoffending and risk management, and partially shifted to the open market competing in the crime control industry. If probation is to re-emerge as a unified

public sector organisation – as is proposed in Wales – significant legitimisation work needs to be undertaken to regain the organisation’s legitimacy and cultural identity starting with probation practitioners themselves.

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